

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2010-24361

Issue No: 3052

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date: [REDACTED]

[REDACTED]

Montcalm County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on [REDACTED]. Claimant appeared and testified.

ISSUE

Did the Department of Human Services over-issue \$ [REDACTED] of Food Assistance Program (FAP) benefits to Claimant and is the Department of Human Services required to recoup the over-issuance?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Claimant was an ongoing recipient of Food Assistance Program (FAP) benefits.
- (2) On August 14, 2009, the DHS case worker incorrectly removed Unemployment

Compensation Benefits (UCB) from Claimant's Food Assistance Program (FAP) financial eligibility budget.

(3) On September 30, 2009, Claimant informed her case worker that the Unemployment Compensation Benefits (UCB) had continued.

(4) On November 21, 2009, Claimant's Unemployment Compensation Benefits (UCB) were included back into her Food Assistance Program (FAP) financial eligibility budget. The BRIDGES computer program automatically generated an over-issuance notice for the months of [REDACTED] and [REDACTED].

(5) On December 1, 2009, Claimant submitted a request for hearing about the over-issuance.

(6) On January 15, 2010, a prehearing conference was held and a Recoupment Specialist (RS) was going to review the case and issue a new notice if there was an over-issuance.

(7) Later on January 15, 2010, a new notice of over-issuance was sent to Claimant.

(8) On March 3, 2010, Claimant submitted a request for hearing about the January 15, 2010 notice.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges

Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

In this case the Department determined that Claimant was over-issued \$ [REDACTED] of Food Assistance Program (FAP) benefits during October and [REDACTED] due to an agency error. During the hearing Claimant verified the accuracy of the dollar values used in the corrected Food Assistance Program (FAP) budgets. The corrected Food Assistance Program (FAP) budgets were checked by this Administrative Law Judge and are correct. Claimant was over-issued \$ [REDACTED] of Food Assistance Program (FAP) benefits during [REDACTED] and [REDACTED].

The over-issuance is classified as an agency error because the Department had accurate information about Claimant's Unemployment Compensation Benefits (UCB) continuing but mistakenly removed them from her financial eligibility budget. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

BENEFIT OVERISSUANCES

DEPARTMENT POLICY

All Programs

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). This item explains OI types and standards of promptness (SOP).

Note: A client or CD/C provider may voluntarily repay any program benefits even when there is no overissuance. Refer these situations to the local office fiscal unit.

OVERISSUANCE TYPES

All Programs

The three different OI types are described below. Further detail is included in BAM 705, 715 and 720.

Agency Error

All Programs

An agency error OI is caused by an incorrect action (including delayed or no action) by DHS or DIT staff or department processes. Some examples are:

- Available information was not used or was used incorrectly.
- Policy was misapplied.
- Action by local or central office staff was delayed.
- Computer or machine errors occurred.
- Information was not shared between department divisions (services staff, Work First! agencies, etc.).
- Data exchange reports were not acted upon timely (wage match, new hires, BENDEX, etc.).

If unable to identify the type of OI, record it as an agency error.

FIP, SDA, CDC and FAP

Agency error OI's are not pursued if the estimated OI amount is less than \$125 per program.

Exception: There is no threshold limit on CDC **system** errors. RRS in central office will recoup these types of overissuances.

Example: If payroll checks or EFTs for the provider and/or client were issued twice, the full amount would be recouped by RRS.

FIP, SDA and FAP Only

The agency error threshold was lowered to \$125 from \$500 with a retroactive effective date of August 1, 2008.

Note: The past agency error threshold was lowered to \$500 from \$1,000 effective April 1, 2005 and retroactive back to September 1, 2003. If the agency error includes September 2003, the \$500 threshold applies. If all months of the error are prior to September 2003, the \$1,000 threshold applies. (BAM 700)

The policy cited above dictates that the recoupment threshold for the over-issuance to Claimant is \$ [REDACTED]. Because the over-issuance to Claimant was in the amount of \$ [REDACTED] the Department must attempt to recoup the over-issuance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services over-issues \$ [REDACTED] of Food Assistance Program (FAP) benefits to Claimant and the Department of Human Services is required to recoup the over-issuance.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 5, 2010

Date Mailed: April 6, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

GFH/alc

cc:

